

REMARKS

This responds to the Office Action mailed on June 14, 2005 and the references cited therewith.

No claims are amended, canceled, or added; as a result, claims 1-4, 6, 8, 11-16, 19-34, 38-42, and 45-92 remain pending in this application. Claims 1-4, 6, 8, 11-12 and 45-47 stand allowed and claims 13-16, 19-34, 38-42, and 48-92 stand rejected.

ARGUMENT

A. Summary of Arguments

Applicant respectfully submits that the pending claims are in allowable form for various reasons as detailed in the arguments below. In particular, Applicant respectfully objects to the lack of references provided to show the various claim elements that were officially noticed in the previous office action.

B. Applicable Law

1. 35 U.S.C. § 103(a)

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. *Oetiker*, 977 F.2d at 1445, 24 USPQ at 1444. *See also Piasecki*, 745 F.2d at 1472, 223 USPQ at 788.

When determining obviousness, “the [E]xaminer can satisfy the burden of showing obviousness of the combination ‘only by showing some objective teaching in the prior art or individual to combine the relevant teachings of the references’”. *In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002), citing *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). “Broad conclusory statements regarding the teaching of multiple

references, standing alone, are not ‘evidence.’” *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617. “Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact.” *Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617, citing *McElmurry v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

The Federal Circuit states that, “[t]he mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.” *In re Fritch*, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-83 n.14 (Fed. Cir. 1992), citing *In re Gordon*, 733 F.2d 900, 902, 221 USEQ 1125, 1127 (Fed. Cir. 1984). In addition, the court stated in *In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002), that when making an obviousness rejection based on combination, “there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by Applicant” (quoting *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998)).

2. M.P.E.P. 2144.03 –Reliance on Common Knowledge in the Art or “Well Known” Prior Art

M.P.E.P. 2144.03 is hereby incorporated by reference as a summary of the standards regarding when and how official notice may be taken. Particular emphasis is placed on the following:

“Official Notice without documentary evidence to support an examiner’s conclusion is permissible only in some circumstances. While “official notice” may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 C.F.R. 1.113.”

C. Claims 48, 50-60, 62, and 68-70 are patentable

Claims 48, 50-60, 62 and 68-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Giljum et al. (U.S. 6,745,238; hereinafter “Giljum”) further in view of Cole et al. (U.S. 5,621,857; hereinafter “Cole”) and further in view of Kleider et al. (U.S. 5,930,748; hereinafter “Kleider”).

Applicant respectfully traverses the rejection of independent claim 48 because the Final Office Action has made an improper *prima facie* showing of obviousness. The showing of obviousness is deficient for several reasons including:

1. There is not an assertion that all elements of the claim are taught by the combination of references;
2. There is no motivation to combine the references;
3. There is no reasonable expectation of success in combining the references; and
4. The rejection is premised in part on an improper taking of official notice.

1. The limitations of claim 48 are not taught or suggested by the combination of references

Despite the rejection of claim 48, there is no assertion that “each feature is configured for being detected in at least a portion of the at least one item for classification of that item;” as claimed is taught in any of the references. Applicant is unable to find such a teaching in the references.

Further, the Final Office Action, in paragraph 8, recites:

“However, Giljum fails to disclose producing a category vector for each category, wherein each category vector includes a weight corresponding to each category feature, said weight indicative of a degree of association between said category feature and said category. . . . However, Cole discloses these features in col. 8, line 50 – col. 9, line 25 of the invention in that a recognition and classifying task, which is analogous task, is being performed, and vectors are used to allow successful classification.”

Applicant believes this recitation is directed to the portion of claim 48 which recites, “determining an initial weight indicating a degree of association between each associated feature and category.” However, the cited portion of Cole describes an accuracy probability of speech recognition. This is not a degree of association as claimed. The claimed degree of association is not an indication of accuracy. Further, a weight is simply not an accuracy probability, although a weight can include a probability component.. See application paragraph 41.

Thus, absent these teachings, the *prima facie* showing of obviousness is improper because the combination fails to teach or suggest all of the claim elements.

2. There is no motivation to combine the references

Further, even if the references taught or suggested all of the claim elements, there is no motivation to combine the references. There is no motivation to combine the references because the recited motivation does not meet the requirements for such a showing. Also, one of skill in the art would not have combined Giljum with Cole or Kleider because such a combination would not have produced the present invention.

The recited motivation to make the combination is deficient. The Final Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *In re Sang Su Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Despite these requirements for combining references and finding a motivation to do so, the Final Office Action provides, "It would have been obvious to one of ordinary skill in the art at the time of the invention to use vectors in the manner of Cole in the context of Giljum in order to allow successful classification." The Final Office Action further provides, "[I]t would have been obvious to one of ordinary skill in the art at the time of the invention to use these teachings of Kleider, the context of Giljum in conjunction with the teachings of Cole in order to produce a combined invention that would have had enhanced powers of classification."

However, these are unsupported statements of subjective belief. These asserted motivations do not come from the references or prior art of record and they lack the required specificity as to why one would modify the references. Further, the motivation provided includes elements not contained in claim 48, but instead from allowed claim 1.

Additionally, the recited portion states that the combination would be made "to produce a combined invention that would have enhanced powers of classification." The Examiner appears to be saying that if such a combination is made, it would produce an invention, and therefore, would not be obvious. Thus, Applicant believes this statement in the Final Office Action acknowledges the inventive aspects of the present claim and claim 48 should be allowed.

Further, one of skill in the art would not have combined the speech recognition systems of Cole and Kleider with the self-service web publishing system of Giljum. Such a combination would not have produced the present invention. Instead, the combination would have produced a speech recognition system for publishing the speech to folders that published to the web. *See* Giljum, Abstract; *see* Cole, Abstract.

Thus, there is not a proper motivation to combine the references because the motivation does not come from the prior art, the provided motivation does not reflect claim 48, and the references, if combined, fail to provide the invention of claim 48.

3. There is no reasonable expectation of success in combining the references

Finally, the prior art must not only suggest the asserted combination of references, the prior art must also provide a teaching or suggestion that there is a reasonable expectation of success in making the combination. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. The reasonable expectation of success cannot be found in applicant's disclosure. *See In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

A factor cutting against a finding of motivation to combine or modify the prior art is when the prior art teaches away from the claimed combination. A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path the applicant took. *In re Gurley*, 27 F.3d 551, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994); *United States v. Adams*, 383 U.S. 39, 52, 148 USPQ 479, 484 (1966); *In re Sponnoble*, 405 F.2d 578, 587, 160 USPQ 237, 244 (C.C.P.A. 1969); *In re Caldwell*, 319 F.2d 254, 256, 138 USPQ 243, 245 (C.C.P.A. 1963).

Applicant is unable to find a teaching or suggestion in the prior art of record that one of skill in the art would have a reasonable expectation of success in combining the references. To the contrary, one of skill in the art would be discouraged from making the combination to classify at least one item across multiple perspectives with features, categories, and perspectives as claimed because Giljum teaches away from the combination. For example, Giljum provides that, "The sub-folders represent a more detailed level of classification that is best implemented

via folders.” Further, Cole provides for speaker-independent speech recognition (Abstract, lines 1-2) while Kleider provides a speaker recognition system (Abstract, lines 1-3). One of skill in the art would be discouraged from combining Cole with Kleider because the efforts of Cole are to remove the necessity to identify the speaker, which makes Kleider unnecessary.

Thus, because the Giljum reference is based on folders, one of skill in the art would be discouraged from modifying the reference to utilize features, categories, and perspectives in classification because doing so would be contrary to the folder/subfolder best solution of Giljum. Further, the efforts of Cole remove the need for the system of Kleider. Therefore, there would not be a reasonable expectation of success in making the modifications to Giljum as the Final Office Action attempts and making the modifications to Cole in view of Kleider are contrary to the teaching of Cole.

4. Official Notice

In rejecting claim 48, the Final Office Action asserts:

“It was notoriously well known in the art at the time of the invention that perspectives without categories serve no useful purpose, so it would have been obvious to one of skill in the art at the time of the invention to have the perspectives have at least one category so as to have the perspectives serve a useful organizational function. . . .”

However, there is not a reference provided that supports this assertion. In the absence of a reference, it appears the Examiner is taking official notice. Applicant respectfully objects to the taking of official notice and, pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of this position. Absent such references, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

The Final Office Action further asserts:

“The claims is essentially similar, except, that there is a further limitation that weights for a category are initially unrelated to weights for other categories of the same perspective but are initially unrelated to weights for categories in different perspectives. However, the weights in the same perspectives are inherently related to other weights in the same perspective by virtue of being in the same perspective and unrelated to weights in other perspectives by virtue of being

different perspectives, and hence this limitation is met.”

Although not called out in the rejection, Applicant assumes the Examiner is taking official notice of this portion of the claim. Applicant respectfully traverses this official notice and requests the Examiner to provide a reference that describes such an element. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

Thus, because Giljum teaches away from the combination, it appears the only motivation to combine the references can be found in Applicant’s disclosure and is premised upon impermissible hindsight. Applicant, therefore, earnestly requests reconsideration and withdrawal of the rejection of independent claim 48 because the rejection is based on an improper *prima facie* showing of obviousness.

Further, the Examiner is using Appellant’s disclosure to provide both the required teaching or suggestion to make the combination of references and the expectation of success. This is contrary to the requirement that both must be found in the prior art and not in the Appellant’s disclosure. *See In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143.

Thus, Applicant respectfully submits that claim 48 is patentable over the combination of Giljum, Cole, and Kleider at least because the combination fails to teach or suggest all of the claim elements, there is no motivation to combine the references, there is no likelihood of success in making the asserted combination, and Giljum actually teaches away from the proposed modifications. Applicant earnestly requests reconsideration and allowance of independent claim 48.

Claims 50-55

Applicant respectfully submits that claims 50-55 are also patentable because they depend, directly or indirectly, from patentable independent claim 48.

Further, with regard to claim 51, the Examiner asserts that the additional limitation of each of this claims, as reproduced above, were known in the art at the time of the invention because, “[I]t was notoriously well known in the art at the time of the invention that a value may default to null if it is not specifically set, for simplicity and consistency’s sake.” Applicant

concedes to this but does not see how such defaulting of parameters can teach reaching conclusions or making determinations based on such default values.

Similar arguments can be made, for instance, for claims 50 and 52-55. For example, with regard to claim 50, the Examiner asserts that “program data such as weights may be obtained from the user to give the user direct control” was notoriously well known at the time of the invention. Applicant concedes that receiving user input was known, but disagrees with the assertion of the application of receiving user input related to a “weight indicating a degree of association between each associated feature and category.”

Thus, it appears the Examiner is taking official notice of claim 50-55. Applicant respectfully traverses this taking of official notice and requests the Examiner to provide a reference that describes each of the claim elements. Absent a reference for each element of claims 50-55, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

Thus, reconsideration and allowance of claims 50-55 is respectfully requested. Absent allowance of these claims, Applicant respectfully requests a reference in support of each claim.

Independent Claim 56

The rejection of independent claim 56 is premised in part on the rejection of claim 1 from the previous office action. However, claim 1 stands allowed. Thus, the grounds of rejection of claim 56 are unclear. Nevertheless, Applicant respectfully traverses the rejection of claim 56 because there is no motivation to combine Giljum, Cole, and Kleider, as discussed above with respect to claim 48, and the combination of references would destroy the purpose of both Cole and Kleider.

Combining Giljum with Cole and Kleider would destroy the purpose of both Cole and Kleider. Cole is a system for speaker-independent speech recognition to find a single highest probability match of a spoken utterance. Cole, Abstract. This is highlighted in the single claim of Cole which provides an end result of a method as “the best match between the successive component scores and each of a plural-component recognition library, thereby to recognize a phrase within the plural-component library.” More simply stated, the end result of the method is

only a single, highest probability match of a spoken utterance. Kleider is in a similar field as Cole, dealing with speaker recognition, and provides a system to provide a single result. Modifying Cole and Kleider as suggested to provide the system of claim 56 would destroy the purpose of both Cole and Kleider to obtain a single, best match output.

Conversely, claim 56 provides for the possibility of multiple outputs of “selecting one or more categories to represent each perspective according to category scores; and classifying items across the selected categories representing the multiple perspectives.” Thus, modifying Cole and Kleider to conform to claim 56 would destroy the purpose of the references to provide a singular output to identify a spoken utterance or a speaker. If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); MPEP § 2143.01. Therefore, there is no motivation to combine the references. Reconsideration and allowance of claim 56 is earnestly requested.

Claims 57-60 and 62

Applicant respectfully submits that claims 57-60 and 62 are also patentable because they depend from patentable independent claim 56.

Further, with regard to claims 57-60 and 62, the Examiner asserts that the additional language of each of these claims, as reproduced in the claims appendix, “was notoriously well known in the art at the time of the invention.” It appears the Examiner is taking official notice of these claim elements. Applicant respectfully traverses these takings of official notice and requests the Examiner to provide a reference that describes each of such elements. Absent a reference for each element of claims 57-60 and 62, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

Thus, reconsideration and allowance of claims 57-60 and 62 is respectfully requested.

Claims 68-70

Applicant respectfully submits that claims 68-70 are also patentable because they depend, directly or indirectly, from patentable independent claim 56 and are allowable for at least the

same reasons.

Claim 68 is further patentable because the combination of Giljum, Cole, and Kleider fails to teach or suggest all of the claimed elements. For example, the Office Action admitted that Giljum, Cole, and Kleider each fail to teach:

“including incorporating a dependence between an item’s category score for a category representing a first perspective and the item’s category score for one or more other categories representing one or more perspectives different from the first perspective.”

However, the Final Office Action maintained that this is inherent in “the scores of claim 1 inherently encapsulate a relationship between the scores, which reflects an implicit dependence.”

Applicant respectfully disagrees because the Final Office Action has not established a *prima facie* case of inherency because, as recited in MPEP § 2112, “In relying upon the theory of inherency, the examiner must provide basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art,” citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

Applicant further traverses the assertion of inherency of claim 68 based on something that the Examiner asserts is inherent in allowed claim 1 rather than something that is inherent in the prior art. It appears that this inherency rejection is improperly premised on Applicant’s own claims.

Further, with regard to claims 69 and 70, the Examiner asserts that the additional language of each of these claims, as reproduced in the claims appendix, “was notoriously well known in the art at the time of the invention.” It appears the Examiner is taking official notice of these claim elements. Applicant respectfully traverses these takings of official notice and requests the Examiner to provide a reference that describes each of such elements. Absent a reference for each element of claims 69 and 70, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

Thus, reconsideration and allowance of claims 68-70 is respectfully requested.

D. Claims 61 and 71 are patentable

Claims 61 and 71 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Giljum, further in view of Cole, further in view of Kleider, further in view of Asai (U.S. 5,257,394; hereinafter “Asai”).

Applicant respectfully submits that claims 61 and 71 are also patentable because they depend from patentable independent claim 56 and are allowable for at least the same reasons.

The rejection of claims 61 and 71 is based upon a previous rejection of claim 2 which now stands allowed. It is unclear what the present grounds of rejection are for claims 61 and 71, namely, what the references supposedly teach and a motivation to combine all four references. Thus, Applicant respectfully requests either allowance of claims 61 and 71 or withdrawal of finality, a proper detailed rejection of these claims, and an opportunity to address such rejections. Absent detailed rejections, Applicant has not been afforded an opportunity to respond to the rejection of claims 61 and 71.

Additionally, Asai is non-analogous art. Analogous art is all art that is either in the field of technology of the claimed invention or deals with the same problem solved by the claimed invention even though outside the field of technology. *In re Wood*, 599 F.2d 1032, 202 USPQ 171 (CCPA 1979).

Asai relates to processing units for a vector computer and, more particularly, to pipeline processing units for use in a supercomputer to increase the processing speed of vector computers and solves issues that are unique to vector computers. In contrast, claims 61 and 71 relate to a computerized method for classifying at least one item across multiple perspectives. Thus, Asai is not analogous art.

Thus, reconsideration and allowance of claims 61 and 71 is respectfully requested.

E. Claims 13-15, 19-21, 26, 31, and 40 are patentable

Claims 13-15, 19-21, 26, 31, and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole.

The Final Office Action rejected independent claim 13 based on Cole. Applicant respectfully traverses the single reference rejection under 35 U.S.C. § 103 since all of the recited elements of the claims are admittedly not found in Cole. Since all the elements of the claim are not found in the reference, Applicant assumes that the Examiner is taking official notice of the

missing elements. Applicant respectfully objects to the taking of official notice with a single reference obviousness rejection and, pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of this position. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

In response to the previous traversal of the taking of official notice, the examiner asserts:

“With respect to the Official notice point with respect to Cole regarding delayed speech recognition, the Examiner does not believe a reference is necessary to support the existence of delayed speech recognition because speech input must inherently be stored in a file before it can be recognized, which constitutes delayed recognition, and this how Cole would inherently operate.”

However, Applicant is unclear how delayed speech recognition is pertinent to claim 13, which is directed to “a computerized method for classifying text.” Further, it appears the Examiner is not giving full weight to the language of claim 13 specifying that the claim is directed toward classifying text and not spoken utterances. Applicant reiterates the request from the Rule 1.111 response to the previous office action for a reference that provides support for this taking of official notice in accordance with M.P.E.P. § 2144.03.

Claim 13 is further patentable because Cole describes identifying speech-tokens while claim 13 is directed to classifying text. Also, Cole identifies individual speech tokens while claim 13 classifies “a document or query item.” Thus, the description of Cole is in an entirely different context than claim 13 and Cole fails to teach or suggest these elements of claim 13.

Thus, claim 13 is patentable over Cole because Cole admittedly fails to teach or suggest all of the claim elements and is in an entirely different context than claim 13. Applicant respectfully requests reconsideration and allowance of independent claim 13.

Applicant respectfully submits that claims 14-15, 19-21, 26, 31, and 40 are also patentable because they depend, directly or indirectly, from patentable independent claim 13 and are allowable for at least the same reasons.

With further regard to claim 31, the Final Office Action cites Cole at col. 8, line 50 – col. 9, line 25 as the “weight indicative of a degree of association between said item and said

category.” However, the cited portion of Cole describes an accuracy probability of speech recognition. This is not a degree of association as claimed. The claimed degree of association is not an indication of accuracy. Further, a weight is simply not an accuracy probability, although a weight can include a probability component.. See application paragraph 41.

The Final Office further asserts that the additional language of claims 19-21, 26, and 40, as reproduced in the claims appendix, “was notoriously well known in the art at the time of the invention.” It appears the Examiner is taking official notice of these claim elements. Applicant respectfully traverses these takings of official notice and requests the Examiner to provide a reference that describes each of such elements. Absent a reference for each element of claims 19-21, 26, and 40, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

F. Claims 16 and 32-34 are patentable

Claims 16 and 32-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of McInerney et al. (U.S. 5,325,333; hereinafter “McInerney”).

Applicant respectfully submits that claims 16 and 32-34 are patentable because they depend, directly or indirectly, from patentable independent claim 13 and are allowable for at least the same reasons.

Applicant further traverses the combination of Cole in view of McInerney as being premised on impermissible hindsight. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. The Examiner must avoid hindsight. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

The provided motivation to combine the references is not relevant to the purpose of the presently claimed invention. It appears that the McInerney reference was selected purely because it includes the “IsSynthetic” attribute and not because it has anything to do with classifying text. Further, the motivation to combine the references as provided in the Final Office Action deals with programmer access to program data. This is irrelevant to the present

claims. For example, claim 16 deals with an “Edited” attribute which is used in text classifier training. *See* Application, page 18, paragraph 42-43.

Further, with regard to claims 33 and 34, the Examiner asserts that the additional language of each of these claims, as reproduced in the claims appendix, “was notoriously well known in the art at the time of the invention.” It appears the Examiner is taking official notice of these claim elements. Applicant respectfully traverses these takings of official notice and requests the Examiner to provide a reference that describes each of such elements. Absent a reference for each element of claims 33 and 34, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

Thus, because McInerney is unrelated to the present claims, Applicant respectfully submits that the combination of references has been made using impermissible hindsight. Applicant respectfully requests reconsideration and allowance of claims 16 and 32-34.

G. Claim 22 is patentable

Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole in view of Zamora et al. (U.S. 4,833,610; hereinafter “Zamora”).

Applicant respectfully submits that claim 22 is patentable because it depends directly from patentable claim 15 and indirectly from patentable claim 13. Claim 22 is patentable for at least the same reasons as claims 13 and 15. Reconsideration and allowance of claim 22 is earnestly requested.

H. Claims 23-25, 27-30, and 38-39 are patentable

Claims 23-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Walls et al. (U.S. 5,835,918; hereinafter “Walls”).

Claims 27-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Togami (JP407160658A; hereinafter “Togami”).

Claim 38 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Fein et al. (U.S. 5,924,108; hereinafter “Fein”).

Claim 39 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in

view of Rongley (U.S. 5,785,322; hereinafter “Rongley”).

Applicant respectfully submits that claims 23-25, 27-30, and 38-39 are patentable because they depend, directly or indirectly, from patentable claim 13 and 15 and are allowable for at least the same reasons.

Further, with regard to claims 25 and 28, the Examiner asserts that the additional language of each of the claims, as reproduced in the claims appendix, “was notoriously well known in the art at the time of the invention.” It appears the Examiner is taking official notice of these claim elements. Applicant respectfully traverses these takings of official notice and requests the Examiner to provide a reference that describes each of such elements. Absent a reference for each element of claims 25 and 28, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

Applicant respectfully requests reconsideration and allowance of claims 23-25, 27-30, and 38-39.

I. Claim 41 is patentable

Claim 41 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Quinn (U.S. 5,761,385; hereinafter “Quinn”).

Applicant respectfully submits that claim 41 is patentable because it depends, directly or indirectly, from patentable claims 13, 15, and 31, and is allowable for at least the same reasons. Claim 41 is further patentable because the combination of references fails to teach or suggest all of the claim elements.

For example, Applicant respectfully submits that the combination fails to teach or suggest “multiplying said weight by a scaling parameter, provided the decision to classify the item into said category was based on at least one feature automatically associate with the category.” Quinn is provided as teaching these elements. However, review of the cited portion of Quinn (col. 4, line 40 – col. 5, line 10) fails to reveal any multiplication nor a decision to classify the item into a category based on at least one feature automatically associated with a category. Thus, because Quinn further fails to cure the deficiencies of Cole with regard to claims 13, 15, and 31, Applicant respectfully submits that claim 41 is patentable. Reconsideration and allowance of

claim 41 is earnestly requested.

J. Claim 42 is patentable

Claim 42 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Quinn, further in view of Inazumi (U.S. 6,151,592; hereinafter “Inazumi”).

Applicant respectfully submits that claim 42 is patentable because it depends, directly or indirectly, from patentable claims 13, 15, 31, and 41, and is allowable for at least the same reasons. Reconsideration and allowance of claim 42 is respectfully requested.

K. Claim 46 is patentable

Claim 46 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Kleider, and Murphy (U.S. 5,073,867; hereinafter “Murphy”). However, the Form PTOL-326 “Office Action Summary” indicates that claim 46 is allowed. Further, claim 46 depends, directly or indirectly, from allowed claims 1 and 45. Thus, Applicant respectfully requests clarification as to the actual status of claim 46. If claim 46 does stand rejected, Applicant respectfully requests reconsideration and allowance of the claim as it depends from allowable claims.

L. Claims 49 and 63-67 are patentable

Claims 49 and 63-67 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Giljum, further in view of Cole, Kleider, and Murphy. Applicant respectfully traverses this rejection because Murphy fails to cure the deficiencies of the Giljum, Cole, and Kleider combination as discussed above with regard to independent claims 48 and 56. Applicant further submits that claims 49 and 63-67 are patentable because they depend, directly or indirectly, from patentable independent claims 48 and 56.

M. Claims 72-74, 76, and 78-91 are patentable

Applicant respectfully submits that claims 72-74, 76, and 78-91 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole, further in view of Murphy.

Applicant respectfully submits that claims 72-74, 76, and 78-91 are patentable because there is no motivation to combine Cole in view of Murphy and even if combined, the combination admittedly fails to teach all of the claimed elements.

For example, the Office Action states:

“It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Murphy’s trained neural network into Cole in order to gain the advantage of progressively accurate classification.”

However, this is merely a conclusory statement of subjective belief. Applicant submits that the Office Action has not provided objective evidence of record as to why these references should be combined and is instead using impermissible hindsight. Further, the Office Action has failed to show any reasonable expectation of success in combining the references from the prior art. Thus, Applicant respectfully submits that there is no motivation to combine the references.

Further, the Office Action admits on page 26 at paragraph 85 that Cole fails to disclose receiving user-input defining all associations as set forth in the claim. However, the Office Action further states, without providing a reference, that:

“[I]t was notoriously well known in the art at the time of the invention that users may input program data in order to have direct control over program operation, so it would have been obvious to one of ordinary skill in the art at the time of the invention to have the user input the association data to allow direct control over program operation.”

This unsupported statement amounts to a form of Official Notice that is unsupported by a reference, and which is timely traversed under MPEP 2144.03. Applicant requests the Examiner provide a reference that describes such an element. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2). In response to previous arguments, the Examiner provides in paragraph 103 of the Final Office Action that “user control of program operation, as an example any common office program such as a word processor or a spreadsheet uses user input to control the program.” However, the Examiner is taking official notice for more than just program operation. The Examiner is taking official notice of input of the association data as well. The input of such association data is admittedly not found in the references of record. Thus, Applicant requests that the reference or affidavit be provided to

show that “receiving user-input defining all associations between classification features and categories.”

Thus, Applicant respectfully submits that the Office Action has failed to show all of the claimed elements.

Absent a proper motivation to combine the references and a showing of all of the claimed elements in the prior art, Applicant submits that independent claim 72 is patentable.

Reconsideration and allowance of independent claim 72 is respectfully requested.

Claims 73-74, 76, and 78-91 depend, directly or indirectly, on claim 72 and are patentable over Cole in view of Murphy for the reasons argued above, plus the elements in the claims. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. MPEP § 2143.03.

Further, with regard to claims 78-79, 83, and 90-91, the Examiner asserts that the additional language of each of the claims, as reproduced in the claims appendix, “was notoriously well known in the art at the time of the invention.” It appears the Examiner is taking official notice of these claim elements. Applicant respectfully traverses these takings of official notice and requests the Examiner to provide a reference that describes each of such elements. Absent a reference for each element of claims 73, 76, 78-79, 81-83, and 90-91, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit addressing each element officially noticed as required by 37 C.F.R. § 1.104(d)(2).

Thus, Applicant respectfully requests reconsideration and allowance of claims 72-74, 76, and 78-91.

N. Claim 75 is patentable

Claim 75 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole in view of Murphy, further in view of Haimowitz et al. (U.S. 5,819,291; hereinafter “Haimowitz”).

With regard to Haimowitz, Applicant respectfully requests a form PTO-892 “Notice of References Cited” listing Haimowitz as a reference of record along with the next official action. Applicant is unable to find a citation to Haimowitz in an information disclosure statement or Notice of References Cited that is of record.

Claim 75 depends indirectly from patentable independent claim 72. Thus, Applicant

submits that claim 75 is patentable for at least the same reasons. Claim 75 is further allowable because the combination of references fails to teach or suggest all of the claim limitations.

For example, Haimowitz is provided to show an Exact Match attribute. However, the claim specifically requires, “an Exact Match attribute to indicate whether a match t the feature requires both matching case and matching a stemming form.” Applicant is unable to find in the cited portion of Haimowitz where case matching is even contemplated. Further, it appears the remaining language of claim 75 appears to have been ignored as there are not assertions in the Final Office Action that these elements are found anywhere in the prior art.

Thus, Applicant respectfully requests reconsideration and allowance of claim 75. Absent a notice of allowance, Applicant respectfully requests withdrawal of finality and an action that address all of the claim elements to properly afford Applicant the opportunity to fully rebut the rejection.

O. Claims 77 and 92 are patentable

Claim 77 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole in view of Murphy and Fein.

Claim 92 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cole in view of Murphy and Giljum.

Applicant respectfully submits that claims 77 and 92 are patentable as they depend indirectly from patentable independent claim 72. Reconsideration and allowance is respectfully requested.

Allowable Subject Matter

Claims 1-4, 6, 8, 11-12 and 45-47 stand allowed.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6909 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

IGOR UKRAINCZYK ET AL.

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Date

September 14, 2005

By

Thomas F. Brennan

Thomas F. Brennan

Reg. No. 35,075

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 14th day of September, 2005.

Name

Dawn M. Poole

Signature

Dawn M. Poole